IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10..4..2007

Coram

The Hon'ble Mr. Justice K.CHANDRU

W.P. No.12956 of 2007
and
M.P.No.1 of 2007

T.Nagarajan ... Petitioner

vs.

1. The Director of School Education,
   Chennai-600 006

2. The Inspector of Anglo Indian Schools,
   DPI Complex, Nungambakkam,
   Chennai-600 006

3. The Governing Body,
   rep.by the Correspondent,
   St.Patrick's Anglo Indian Higher
   Secondary School,
   Gandhi nagar,
   Adyar, Chennai-600 020

4. The Chief Educational Officer,
   Panagal Buildings,
   Saidapet, Madras. .. Respondents

Petition filed under Article 226 of the Constitution of India seeking for issue of writ of certiorari for the reasons as stated therein.

For Petitioner : Mr.A.V.Arun

For Respondents : Mr.P.Gopiraja,G.A.

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O R D E R

This writ petition is filed to issue a writ of certiorari to call for the records relating to the proceedings dated 22.3.2007 on the file of the Governing Body represented by the Correspondent St.Patrick's Anglo Indin Higher Secondary School, Gandhi Nagar, Adyar, Chennai, the third respondent and to quash the same.

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2. The petitioner is a teacher, working in the 3rd respondent school. The school is affiliated to the Anglo-Indian School Board and also receiving aid from the State. Therefore, the petitioner contends that the writ petition will lie against the said school.

3. In the present writ petition what is challenged is the charge memo dated 22.3.2007 issued to the petitioner, making certain allegations against him. Learned counsel for the petitioner submits that whatever the allegations that has been made, the petitioner cannot be accused, as the incident had taken place in the capacity of his being a parent, as his son is studying in the said school. This defence turns out on the merits of the case and while deciding the question of charge memo, the merits of the defence of the petitioner cannot be taken into account.

4. The other submission made by the learned counsel for the petitioner is that in terms of Section 15 of the Tamil Nadu Recognised Private Schools (Regulation) Act 1973, a School Committee will have to be formed under Section 15 of the said Act and it is only the school Committee, which can take action against any teacher. In the present case, the governing body has taken action against the petitioner. The learned counsel also refers to the Full Bench judgment of this Court rendered in K.M.VALLIAPAN VS. JOINT DIRECTOR OF SCHOOL EDUCATION(HIGHER EDUCATION) AND APPELLATE AUTHORITY, COLLEGE ROAD, NUNGAMBAKKAM, CHENNAI (2006(4) CTC 471), to drive on the point that the school Committee alone can take action and not the governing body.

5. The point raised by the learned counsel for the petitioner has no substance, as the 3rd respondent School is a minority institution and has the full constitutional protection in terms of Article 30(1) of the Constitution of India. Two Division Benches of this Court have gone into the question as to how far the various provisions of the Tamil Nadu Recognized Private Schools (Regulation) Act are applicable to the minority institutions and has held that the provisions relating to the School Committee has no application, as it will offend the rights of the administration conferred on the minority institutions. Therefore, ever since the enactment of the Act, in no minority institutions the provisions relating to the School Committee has been enforced. Even otherwise, similar view has been taken by the Apex Court in several judgments dealing with the Educational Laws, of various States. Therefore, the point governing body of the School cannot take action and only the School Committee can take action fails to the ground. The 3rd respondent School is a minority institution, and Section 15 of the Act will have no application to the said institution.

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6. The Full Bench decision relied on by the learned counsel for the petitioner has no application because the Full Bench was considering the scope and power of the School Committee in taking action against any teacher. In that context it was held that even though Section 18(c) provides that the School Committee alone can take disciplinary action, the Full Bench carved out an exception, in which enquiry can be conducted by a Sub Committee or even by an outsider and thereafter, getting report from that Committee, the School Committee can decide the matter. Therefore, the said Full Bench proceeded only to consider the scope and application of Section 18(c) r/w.Rule 15 (2)(i) r/w.Forms VII-A and VII-B of the Tamil Nadu Recognised Private Schools (Regulation) Act. There is no occasion for the Full Bench to consider the case relating to minority institution vis-a-vis the School Committee in a minority institution. Hence, reliance upon the Full Bench is inappropriate. Under these circumstances, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is dismissed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

msk

To

1. The Director of School Education,
   Chennai-600 006

2. The Inspector of Anglo Indian Schools,
   DPI Complex, Nungambakkam,
   Chennai-600 006

3. The Chief Educational Officer,
   Panagal Buildings,
   Saidapet, Madras.

+1cc to Mr.A.V.Arun,Advocate Sr 22583
+1cc to Govt. Pleader SR 22913

AKM (CO)
km/11.4.

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